

***Minutes***  
**DAGSBORO TOWN COUNCIL**  
**Bethel Center**  
**Monday, March 21, 2022**

**I. CALL MEETING TO ORDER**

Meeting was called to order by Mayor Baull at 6:00 p.m.

In attendance were: Mayor Brian Baull, Vice-Mayor Theresa Ulrich, Councilman William Chandler, Councilman Norwood Truitt, Councilman William Labor, Town Administrator Cynthia Brought, Engineering Consultant Kyle Gulbranson, and Town Solicitor Greg Morris. See sign in sheet for others in attendance.

**II. PUBLIC COMMENT**

No public comment was made.

**III. APPROVAL OF MINUTES**

January 24, 2022 Town Council Meeting

Councilman Chandler made a motion to approve the minutes as submitted. Councilman Truitt seconded the motion. All were in favor.

**IV. CONSENT AGENDA**

**a. Police Department Report**

Chief Flood stated that they did arrest the person responsible for the vehicle break ins in December and January. Around the clock coverage was provided during the snowstorms in January by Chief Flood and Sargent Disciullo. He stated that some of the patrol vehicles have been out of service over the past few months, some for routine and others not for routine. It was about \$2,100 to repair the Silver Taurus, about \$1,600 for the repair on the old Tahoe, and \$600 for Sargent Disciullo's Tahoe for vehicle maintenance. He stated that the department does have a new Durango; however it has been idle since November because they cannot get the equipment for it. The up fit has been started but the department won't be able to use it until all the parts arrive and are installed. Sargent Disciullo was recognized for being on State and Federal Boards for DUI. There was a conference call with OHS and they stated it is going to be a record year for fatalities and serious injuries for Delaware with Sussex County being #2, not far behind New Castle. Therefore OHS is going to do some more enforcement for distracted driving and things like that. Chief Flood stated that they are in the early/preliminary stages of accreditation for the police department.

Councilman Chandler asked how long the accreditation process takes. Chief Flood stated that it takes a year to a year and a half.

Vice-Mayor Ulrich stated that someone in Prince George's approached her and told her that one of our officers shoveled an elderly person's drive during the snowstorm and express how much that was appreciated by the community.

- b. Treasurer's Report
- c. Administrative Report
- d. Building Official Report
- e. Code Enforcement Report
- f. Meeting Reports
- g. Water Department Report
- h. Prince George's Chapel Cemetery Report
- i. Correspondence

Councilman Chandler made a motion to approve the consent agenda. Councilman Labor seconded the motion. All were in favor.

#### **V. PLANNING & ZONING REPORT**

Recommendations Preliminary Site Plans presented to P&Z February 3, 2022:  
Highlands of Pepper's Creek  
Seabreeze Business Park  
(Kyle Gulbranson/Brad Connor)

Brad Connor, Chairperson P&Z Committee, stated that at the February 3<sup>rd</sup>, 2022 P&Z meeting by a vote of 5-0 recommended the Preliminary Site Plan approval for the residential subdivision known as the Highlands of Pepper's Creek as it meets code requirements. The Final Site Plan must follow all requirements/recommendations provided in the Aecom Review and agency approvals must be granted prior to submission. This project is a 51 single family home subdivision located along Clayton Street and is being developed by Double H Development. Neighboring property owner Ed Burton joined the virtual meeting and asked to meet with Mr. Horsey in regard to the buffer that will put in place as his property borders this project. Mr. Burton was told that they are putting in a 20 foot buffer and the requirement is 10 feet, but they are willing to meet with him in person and go over the plan. There were no other comments made from those attending the meeting. Chairperson Connor stated that he spoke to Mr. Burton after the meeting and he does not object to the project as long as the buffer is done.

Brad Connor, Chairperson P&Z Committee, stated that at the February 3<sup>rd</sup>, 2022 P&Z meeting by a vote of 5-0 recommended the Preliminary Site Plan approval with stipulations for the mixed use Seabreeze Business Park located on 8.96 acres on Clayton Street. The motion to approve this Site Plan involves restrictions/stipulations due to a proposed court order involving the tax ditch on this parcel. The developer is seeking a reduced right of way and if this cannot be obtained, it will change the entire Site

Plan. Aecom has proposed changes to the parking spaces at the front entrance as there could be a safety issue. All other recommendations/requirements provided in the Aecom review must be addressed as well as the agency approvals prior to the Final Site Plan submission. It was agreed that Aecom's concerns will be addressed prior to the Town Council meeting and new Preliminary Site Plans will be presented for the Town Council meeting. The applicant is proposing 7 buildings (1 – 4000 sq. ft., 4 – 4800 sq. ft., and 2 – 6600 sq. ft.) with proposed uses being contractor shops/storage and retail with 2 buildings having apartments (1400 sq. ft. each) on the second floor. This parcel is zoned Town Center and permits mixed uses.

## **VI. NEW BUSINESS**

### **a. Audit Results July 1, 2020-June 30, 2021 – PKS - Andy Haynie & Alyssa Revel**

Alyssa Revel stated that the important part of the financial statement is the auditor's report which is on pages 1 and 2 and they have issued an unmodified audit opinion, which is the highest level of assurance that an independent auditor can provide. The Government Audit Standards Report reports any significant deficiencies, material weaknesses or non-compliances that are found during the audit. There was one significant deficiency issued on Internal Control, which is where the Town relies on the auditors to prepare the statements in accordance to GAAP. She stated that this is typical on a small town of your size where the auditors will prepare the statements for you. There were two material weaknesses issued on Internal Control the first one involves the proper segregation of duties in the accounting functions and this is typical of a small town with limited personnel. The second one was that the town relies on the auditors to identify and correct errors to prepare accurate financial statements in accordance with GAAP. She stated that this one is where there was a large amount of journal entries for the audit, however, this was reduced in 2021 from last year and hopefully will be reduced next year as she has been working with Wendy the new finance clerk and she seems to have a better understanding than prior personnel. There were no instances with non-compliance with laws, regulations, grants or contracts.

Alyssa stated that there were noticeable changes in the General Fund from year to year. Cash and Certificates of Deposits increased this year by about \$356,000. She stated that the increase was mainly due to the ARPA Grant that the Town received at the end of Fiscal Year 2021, which was about \$250,000. The mortgage receivable is 0 because it was sold and paid off during Fiscal Year 2021.

The Water Fund had an increase in cash, but the accounts receivable decreased, which is contributable to the staff trying to collect the old outstanding receivables over the past year. There was an increase in accounts payable due to the timing of payments at the end of the year that were larger amounts.

The total operating revenue for the General Fund was about \$117,000. The largest sources were the taxes, which includes property and transfer taxes. Intragovernmental was about \$145,000, which is the grant money. The charges for services were about \$143,000 which is licenses, building permits, impact fees and gross rental receipts. There was an increase in fines and forfeitures of \$28,000 from last year. The total expenditures were about \$731,000 for the General Fund this year. The general government

increased about \$20,000, mainly due to an increase in payroll wages, workman's comp and health insurance. The public safety expenses increased about \$38,000 due to an increase in police overtime and in the uniforms expense. Capital Outlay decreased about \$124,000, which was because there were three new police vehicles purchased during fiscal year 2021. The debt service increased by about \$8,000 and this was because of the new police vehicle lease. The net position is slightly over \$1 million, which was an increase of about \$115,000. She stated that this is made up of \$26,000 of your pre-paid expenses which is non expendable; \$687,000 is restricted for impact fees, grants, and realty transfer tax. The remaining \$340,000 is unassigned and is available for future use.

The Water Fund revenue increased about \$40,000 compared to last year, which was due to a rate increase that occurred in mid to late 2020 and the full impact of that is seen in fiscal year 2021. There was also an increase in impact fees. The expenditures decreased by about \$13,000 which was due to the \$18,000 increase in salaries which was allocated to the Water Fund. The largest expenses in the Water Fund, which is typical, are the depreciation expenses because of all the assets for the water system and the water use charges of about \$124,000, which are the payments to the Town of Millsboro. The net position at the end of the year for the Water Fund is slightly over \$2 million which is a decrease from last year of about \$26,000 and is improved from last year because last year's decrease in net position was about \$140,000. \$1.8 million of the net position is invested in capital assets, net of related debt. The remaining \$177,000 is unrestricted and available for future use.

She stated that in the auditor's communications there are 2 letters; one is a management letter which contains recommendations for strengthening internal controls and operating efficiency. The second letter is the communication with those charged with governance, which is basically the auditor's report to you stating that there were no significant difficulties with the audit, no disagreements with management, all the estimates were agreed upon and no other matters of non-compliance were reported.

Mr. Haynie stated that there was a huge improvement working with the staff since last year at this time. On the financial side of things he typically looks at the operating income or loss more so than the overall because the overall covers things like grants that are a one-time occurrence. The General Fund had a strong year from an operations perspective. The operating income was up \$51,000 for the year to year. The Water Fund only had a \$5,000 loss from operations which is the best since we have been your auditors. The rate increase did get you close to where you need to be on track that it's not a loss for the Town to provide that service.

Vice-Mayor Ulrich asked why the tax revenue had gone down. Alyssa stated that it is due to a decrease in the transfer taxes which is based on building throughout the year.

Councilman Labor asked how the transfer tax was lower this year, but it says that realty transfer tax increased by about \$80 to \$100,000. Alyssa asked Councilman Labor if he was referring to the Realty Transfer Tax on page 5. He stated yes, that it is \$543,760 versus last year it was \$468,534, it seems like it went up by quite a bit. Alyssa stated that it is the net position, which is what you have taken in during

fiscal year 2021 and it's increasing your net position or cash. She stated that the transfer tax did decrease in fiscal year 2021, but the cash taken in increased your net position. Councilman Chandler stated that only \$100,000 was added and we didn't take in \$500,000. Alyssa stated that was correct. Councilman Labor asked if there are other taxes listed that are cumulative or are they all other than that, individual or single use. Mr. Haynie stated that the property tax specifically may not necessarily be from the past year, it could have included prior years, as Alyssa stated earlier regarding efforts to collect on the receivables side. Councilman Labor stated that in regard to depreciation, it looks like the town depreciates on a ten year cycle for equipment and asked if that includes the police vehicles. He asked Chief Flood if ten years is realistic for a police vehicle. Chief Flood stated "not normally, no" typically the life expectancy of a police vehicle is when the vehicle gets over 100,000 to 120,000 mile mark it starts to nickel and dime you. If the vehicle becomes unsafe we need to consider upgrading the vehicles, but it does take a while to get that kind of mileage on a vehicle. Mr. Haynie stated that they look at what vehicles appreciate in other towns/governments and coordinate with the town on the best practices. If it were from income tax it would be five years for vehicles. Typically on the government financial statement a police vehicle is ten years, which he agreed in lots of cases is too long. It can be adjusted, but you are looking to show an expense that is equivalent to the actual cost that is used toward that vehicle year to year. He stated that he does not see a lot of governments using less than ten years. Councilman Labor asked about the Street Aid and the balance being only \$104, what does that fund cover? Town Administrator Brought stated that it covers street lights and typically we run out of funds before the year is over.

Councilman Chandler asked if other than the internal control weakness or deficiency we hear every year, and there is not much we can do about that and we understand that, but is there anything that you think we should be concerned or worried about in terms of an internal weakness or deficiency. Alyssa stated "no, nothing other than what is noted in here." Mr. Haynie stated that there has been improvement and we expect some of those items that have been in here year after year will probably be going away or reduced going forward. Councilman Chandler asked if Alyssa, in terms of interaction with the town staff and management, if they have any concerns about the transparency or cooperativeness. Alyssa stated "no, she does not have any concerns."

Vice-Mayor Ulrich asked if they anticipate the amount of journal entries to continue to go down. She felt that 50 journal entries was a lot and doesn't recall what the year was previously. Alyssa stated that is was a lot more the year before, but she does feel it will significantly decrease. She stated that Wendy has already entered all of those journal entries, which has fixed a lot of outstanding items that just carried over each year.

**b. Dagsboro PD – Proposal For Upcoming Growth – Chief Flood**

Chief Flood stated that Sargent Disciullo and he discussed the potential future development coming to town and if they as a four man department are prepared for that; they both said no. They are proposing hiring at a minimum of six officers over the next three years essentially doubling the department. He stated that the problems with future developments arise before anyone is living in the houses for the

police department. Once the dirt road goes in that's when the problems start with theft from lumber, appliances and air conditioners. They would like to try to stay ahead of that which is why they proposed having two officers for the next three years as hires.

Chief Flood stated that they were given a paper in regard to new recruits versus certified officers. He feels that not a lot of certified officers are leaving for whatever reason. He would like people to come to our police department and our town to work and be happy here. It is like any other business, if they are happy they are motivated, but if they are not happy they are not going to work for you. He would like people that want to be here and want to stay here. The retention part is the hardest part, especially being a small town, that is not paying the best and nowadays people are going elsewhere strictly for the money. It is broken down as to what it costs for a new recruit which is roughly \$88,000 versus certified officers being roughly \$76,000. If you hire a new recruit there is the risk of them quitting at any time during the academy and the town is already out half if not more of that expense and they would be a year out from really helping because of a training period.

Chief Flood stated that they have some fleet considerations for the vehicles, as you cannot get parts or police vehicles. They have been calling New Jersey, New York, and Texas to try and get anything that they can as far as a police vehicle. The 2011 Tahoe is the spare/back up vehicle and they wanted to turn that over to Joe (Town Maintenance) and obviously would strip everything out of it. Everything is going up in cost and therefore a new vehicle and the up fit is roughly \$62,000. He stated that there are grants that can be used towards the vehicle purchases one is the County Grant of \$30,000. He stated that they are applying for every grant available and they don't always get them but they are at least applying.

Sargent Disciullo stated that in the last six months they have applied for about \$50,000 in grant money. They recently applied for an \$11,400 grant toward the portable radios and the price for them has increased about \$2,000 per unit over the last year and half. Another grant they applied for in the amount of \$3,350 is going toward the cost of the Durango. We have also have one grant for \$10,000 toward uniforms, and one for \$15,000 toward other equipment – radar, body cameras, laptops, vests and tasers, which are all essential to run the police department efficiently.

Councilman Labor asked if there was a per capita that is spent on the police as he recalls the general percentage of operating expenses for the police being questioned. Sargent Disciullo stated that he believed that 49% was determined for expenditures for the police department compared to the total for the town and felt the police department was about half the towns' expenditures which was high. He felt that it needed to be compared apples to apples because the cost does not include the water cost. He did a comparison with about a dozen towns in Sussex and Kent County and most include their water cost in the total expenditures. If the water cost was included in the Town of Dagsboro's budget it brings the percentage for the police department down to about 30% of the operating expenditures. Therefore, per capita, it depends on which agency you are referring to. The Dagsboro Police Department has a lower amount of officers than most of the other towns with similar to slightly higher populations. He stated that there are not a lot of agencies that have a four man department and have numbers like the Dagsboro Police Department, as far as the complaint and traffic numbers.

Councilman Labor asked if in regard to the per capita budget for police, if he was referring to specifically officers to the total population. Sargent Disciullo stated that Dagsboro is below the ball in comparison to others. Other agencies with a similar population base are staffed with eight officers, which is considered full time, and we are a four man department essentially handling double the work load. Councilman Labor asked how Town Council or the town residents felt about having more police officers. Mayor Baull stated that he would think that people want more police officers. Chief Flood stated that most nights there is an officer on duty until midnight. Councilman Truitt confirmed that this proposal was to hire six new officers not just two additional and Chief Flood stated "that is correct, for a total of ten." Sargent Disciullo stated that they are asking for one officer immediately and preferably the second one within twelve months depending on the finances.

Councilman Chandler stated that his two questions are one, is there a need, which he felt that there is not an arguable question about that. It is tough to ask a uniformed officer to be out there operating alone when we are all aware of what has happened in neighboring towns. There should be at least two people on duty to support each other. The second question, which is the bigger question, is how to finance or pay for it. What would be the cost if we hire one officer in the next twelve to eighteen months with a vehicle? The cost would be roughly \$75,000 or \$80,000 for the officer and roughly \$65,000 for the vehicle. The total would be roughly \$150 to \$160,000 and this would be an ongoing expense it is not a one year occurrence in the budget. Councilman Chandler asked Town Administrator Brought if that would fit into the upcoming budget. She stated that operations, as it is currently, that expense would not fit; however, there are funds available for Public Safety through the Real Estate Transfer Tax. That cannot be guaranteed each year as it cannot be predicted how much Real Estate Tax would be received each year. If the developments come to fruition, with that comes more tax base and water, then it could be doable. Councilman Chandler asked about the Rescue Funds, she stated that is questionable, but there are some grants that can be used, therefore she felt there would be assistance available, but again, that wouldn't be guaranteed every year without growth.

Councilman Labor asked if the grants were used to fund the initial two officers, in a couple of years, the proposals of Highlands of Pepper's Creek and Seabreeze Business Park were approved, would that be enough to cover the running cost. Town Administrator Brought felt that would have to be evaluated by how quickly they are developed and how quickly they would sell or would they be constructed in phases. She stated that the funds for the first year would be available between grants and Real Estate Transfer Tax. Vice-Mayor Ulrich stated that for one officer, the first year is the worst, it would decrease after that. Councilman Labor stated that in order to stay competitive with other markets the cost should increase with raises otherwise we could potentially lose them. Councilman Labor asked about training for the police department as that helps motivate moral. Chief Flood stated that the officers are mandated every year to have sixteen hours of training and each officer goes well above that. Sargent Disciullo and Corporal Valenti are Drug Evaluation Experts and therefore they respond anywhere in the state to suspected impaired drivers for drugs and their training throughout the year is more extensive. Sargent Disciullo stated that all the training that they must attend is free.

Councilman Chandler asked in terms of money what about the money that, thanks to Sargent Disciullo, we are supposed to get that is about how much \$160,000. Sargent Disciullo believed that it is approximately \$168,000 or \$175,000. Councilman Chandler stated that money will be coming to us at some point. Chief Flood stated that "we hope." Essentially, Sargent Disciullo in 2019 made a drug seizure which had a lot of drugs and money therefore it went federally. The DEA has the money currently, we have applied for the money as it has already been through the court process and it is dedicated to the Dagsboro Police Department. Drug seizure money cannot be used to pay an officers salary, but you can purchase anything equipment wise that is needed. Chief Flood stated that the money is forfeited and they are just waiting to allocate the money.

Councilman Labor asked if the grants expire, for example, would we lose that money if we cannot get a vehicle. Town Administrator Brought stated that "yes, they have to be used by a certain time." Chief Flood stated that is correct, for example, the \$30,000 County Grant that is being used toward the vehicle purchase was started twenty years ago at \$20,000 and has grown to \$30,000 and has never depreciated. Sargent Disciullo asked to confirm which grant is being referred to, the \$30,000 or the \$100,000 grant. Town Administrator Brought stated that the \$100,000 grant is a special grant from the county as the transfer tax for the county is huge and they decided to give back to the towns.

Vice-Mayor Ulrich confirmed that what is being proposed right now would be one police officer for this first year. Chief Flood stated that it would be two within a twelve month period or by the end of the year which he is not sure is doable. Mayor Baull stated that in a perfect world this is what you would like but realistically one in twelve months and a vehicle. Vice-Mayor Ulrich suggested hiring one police officer and a vehicle and re-evaluating the budget to see the impact. Chief Flood stated that in regard to the vehicle purchase, they have been searching and to be honest if they are able to find two police vehicles the town should get both. She asked if Chief had anyone in mind as far as hiring. He stated that they have one certified and two non-certified that have submitted applications, but they have not officially made the announcement public as they wanted to wait until after this meeting.

Councilman Chandler asked if this was an item that can be voted on. Mayor Baull stated that he felt it was more on the lines of can it be afforded. Town Administrator Brought stated that she felt to hire one officer and the purchase of one if not two vehicles would work this year. Councilman Chandler deferred to Town Solicitor Morris whom agreed it was on the agenda therefore the public was fully aware that the issue was to be addressed and he felt that there were no FOIA violations in regard to that.

Councilman Chandler made a motion to authorize Chief Flood move forward with hiring one new additional officer and purchase one new vehicle unless he is successful in finding two new vehicles then he is authorized to acquire the two new vehicles. Vice-Mayor Ulrich seconded the motion. All were in favor.



c. Discussion & Possible Vote Regarding Preliminary Site Plans::  
Highlands of Pepper's Creek

Zac Crouch, with Davis, Bowen & Friedel, is represented applicant Bobby Horsey for the Preliminary Site Plan approval process for the Highlands of Pepper's Creek. In January they met with the Planning & Zoning Commission and they have addressed the comments in regard to the sidewalk and the cul-de-sac that were received from that meeting. This project was originally presented before the Town in 2009 and at that time was for 326 condos. With that application it was zoned High Density and since then the zoning was rescinded and reverted back to Medium Residential zoning. The property has been re-surveyed and there were existing wetlands in 2009 and over the past years it was never cleared and wetlands have grown and taken over. The wetlands delineation was completed by Ed Launay with ERI and the wetlands and the locations of the wetlands will be submitted for a jurisdiction determination. The project that is being proposed is 51 single family lots and the configuration is based off of the wetlands that were located. He stated that they have already met with Del-DOT, had a preliminary meeting with SCD, and have met with Sussex County Engineering for sewer, and water of course is reviewed by Kyle with AECOM. The plan does meet all of the comments from the P&Z Commission and are per the Code. He stated that they are showing an increase in buffers, as stated by the report given by the P&Z Commission. There is a 10 foot buffer requirement and we are showing 20 feet due to the adjacent property owners. The wetlands buffer requirement is 10 feet and we are showing 30 feet.

Councilman Chandler asked for clarification regarding the buffering and screening, as in addition to Mr. Burton's property, there are two other homes along Clayton Street owned by the George's and the Glenn's he asked if they butt up to those properties and is there a buffer between them. Mr. Crouch stated that yes, there is an even greater buffer between them and the reason being that there are some wetlands on the back end of their property and also an existing ditch which all will remain untouched. Per Town Code, any wetlands in reference to woodlands in the wetlands they cannot be disturbed. Councilman Chandler asked if sidewalks were going to be along both sides of the streets or only on one side of each street. Mr. Crouch stated that they asked the P&Z Commission to consider, due to the wetlands, running sidewalks along one side of the street unless there was a lot. The plan has been revised to show sidewalks, in some cases, on both sides of the road fronting the streets. Then on PRE05 there is storm water management in the middle of the road and there is no need for a sidewalk. The sidewalk runs around the outer perimeter of the road but it is interconnected and you can walk through the development on a sidewalk. Engineering Consultant Gulbranson stated that every lot in the development will have sidewalk on the frontage.

Councilman Chandler stated that because there are wetlands and tax ditches along this property and he had attended a Tax Ditch Organization meeting in February, a report was given at that meeting on this property. The report indicated that the tax ditch would probably be relocated and asked if that was their intention. Mr. Crouch stated, "no," on the plan the setbacks have been identified for the tax ditches and there are some reductions that were done previously that are shown. This project consists of three parcels. It stopped with one parcel and picked up with another parcel with a difference of 40 feet and 80 feet. The reduction will carry through to the property, but there will still be a setback from

the tax ditch for maintenance reasons. Councilman Chandler stated that would be correct because every tax ditch has a right of way easement. At the organizational meeting it was mentioned that there is a crossing pipe that crosses from Clayton that ties the tax ditches on the North side of Clayton with the South side of Clayton. The Seabreeze Business Park and Highlands of Pepper's Creek will both impact that crossing pipe and the Tax Ditch Organization said that it would have to be replaced as it would not be able to handle the volume of water. He asked if there had been discussion with either of the developments about replacement of that crossing pipe. Mr. Crouch stated that SCD would like them to analyze that pipe, but they felt it was more of a maintenance issue and needs to be cleaned out. As for capacity, they need to analyze that as part of storm water management, therefore if there is not capacity then yes, they would have to replace it. Councilman Chandler asked if there was an estimation of how much fill dirt would have to be brought into the site in order to build. Mr. Crouch stated not at this time.

Councilman Labor asked what the projected timeline consisted of. Mr. Crouch stated that as far as the construction, the infrastructure and storm water management would be done at once, and the homes would be done in phases. Mr. Horsey stated that yes the earthwork would be done in one shot because of the storm water ponds. Their plan was to do two phases to get the builders started and the roads paved to meet their conditions precedent to closing. He stated that the builders' timeline was about 18 months for both phases to be completed. Councilman Labor asked what the average size of the homes would be. Mr. Horsey stated that he was unsure as he has not seen the model but that the builder was Ryan Homes.

Councilman Labor asked in regard to the entrance being across from Seabreeze Business Park if they are going to add a light. Mr. Crouch stated that they had a pre-submittal meeting with Del-DOT and there will be a protected left turn going into the property. There will be improvements made on Clayton Street but a light will not be installed as it is not warranted in a 25 mph speed zone.

Councilman Labor asked if there had been any meetings in regard to other infrastructure service providers like Mediacom. Mr. Crouch stated that Mediacom will be contacted in reference to having some type of telecommunication and cable.

Councilman Labor stated that he asked about size to see if we could equate the tax revenue. Mr. Crouch believes that their target is in the \$350,000 range for sale price, which is what the town tax ratio is generated from. Town Administrator Brought stated that property tax is based on .56 per \$100 of the assessed value.

Vice-Mayor Ulrich asked if the road was going to be widened at the entrances or are they putting in a turn lane. Mr. Crouch stated that it cannot be done on the South side due to the current sidewalk and the drainage ditch across there, but everything will be shifted toward their site which would include shoulders on both sides and there is enough right of way. He stated that they have to do an overlay where the railroad stops and their frontage would have to be repaved. Vice-Mayor Ulrich asked if along the railroad tracks is there a plan to put plantings or fencing there. He stated that they have a 50 foot

buffer between the lots and the property line. The buffer was increased because it is next to the railroad.

Councilman Truitt made a motion to approve the Preliminary Site Plan for the Highlands of Pepper's Creek. Councilman Labor seconded the motion. All were in favor.

#### Seabreeze Business Park

Steve Engel, of Vista Design, represented applicant Brian Florek for Preliminary Site Plan approval for the Seabreeze Business Park. The proposal is for seven contractor shops, two of which may have apartments on the second floor. This project was presented to the P&Z Commission at their January meeting and a recommendation was received. They have addressed AECOM's comments with the only outstanding issue being with DNREC and the tax ditch easement. Currently there is an 80 foot right of way on both sides of the ditch. They have submitted an application proposing to have that reduced to 50 foot and at this time they have not received any indication that it would not be reduced. They have not met with Del-DOT at this point, as this is all preliminary.

Engineering Consultant Gulbranson stated that the issue with the tax ditch if the reduction cannot be made, the site plan would have to change. If the court order change is not approved there will be a different format or plan come through. Councilman Truitt confirmed that the plan submitted at this time is with the 50 foot easement, 100 foot total easement. Mr. Engel stated "yes, that is correct and they had not indicated that it would not be approved." He stated that he was told that as long as they did not request less than 50 feet it was not going to be an issue. Engineering Consultant Gulbranson stated that he had not seen one not be approved, but it is the process that takes some time. Councilman Chandler asked Mr. Engel if they have addressed the crossing pipe that goes across Clayton Street. Mr. Engel stated that the water flows South and therefore they will not be impacting the pipe, but that it would be addressed with the approval from the SCD, which originally said it needed to be cleaned out. Councilman Chandler asked if what the SCD stated, with needing to be cleaned out that it would be the easy fix, but if it is determined that it needed to be enlarged, wouldn't that be a problem for another day? Engineering Consultant Gulbranson stated that the increased flow would be handled by the Highlands of Pepper's Creek project.

Councilman Chandler asked, in regard to the apartments if there would be one apartment above building six and seven. Mr. Engel stated that there would be four apartments above each of those buildings for a total of eight apartments. Councilman Chandler confirmed with Engineering Consultant Gulbranson that there is enough parking for the potential apartments plus the commercial vendors. Mr. Gulbranson stated that there is actually more parking than is required.

Councilman Chandler asked if there is proposed buffering and screening on all sides of the property. There appears to be on the Growmark side, but he wanted to be sure that there would be appropriate buffering for the residential properties. Mr. Engel stated that the Code requires that they buffer the East property line and there is existing vegetation to the South, but they are not proposing any further

buffering at this time. The residential properties are on the West of the property, which is also where the tax ditch easement is and they are not allowed to plant within that area.

Mayor Baull asked what type of vehicle traffic they anticipate with the commercial buildings. Mr. Florek stated that he does not anticipate large trucks as he is thinking smaller contractors. Vice-Mayor Ulrich stated asked if the five buildings in the back are for the contractor shops and the two buildings at the front are more store fronts. He stated that yes, that is what he was thinking as he owns a wood working shop and therefore for him, there would not be traffic other than him and two other employees. Engineering Consultant Gulbranson stated that they have a phasing plan as well in terms of construction. Vice-Mayor Ulrich asked if he would be starting with the back buildings and working toward the front.

Councilman Labor asked how the tax revenue would be determined for the businesses. Town Administrator Brought stated that each business would be assessed. He asked what the timeline was as far as the phasing. Mr. Florek stated that he is hoping within a year to have building one and two completed and the others to be completed within five years.

Councilman Labor made a motion to approve the Preliminary Site Plan for the Seabreeze Business Park. Councilman Truitt seconded the motion. All were in favor.

d. Sussex County One Time Grant RTT Grant \$100,000 Discussion/Possible Vote

Town Administrator Brought asked what the Councils' thoughts were on the use of this grant because she cannot submit the application until she knows what it would be used for and that it is an allowable use. Public Safety is an allowable use and that is what she felt it should be used toward. Councilman Chandler confirmed it could be used for anything in regard to Public Safety including salary. She stated "yes, that is correct." Mayor Baull asked if this was a matching one. She stated "no anything \$100,000 or less does not require matching funds."

Councilman Chandler made a motion for Town Administrator Brought to submit an application for the one time grant for RTT of \$100,000 to be used toward Public Safety. Vice-Mayor Ulrich seconded the motion. All were in favor.

e. Annual Renewal Town Administrator Cindi Brought – Discussion/Vote

Councilman Chandler made a motion to renew Town Administrator Brought's contract with the same terms and conditions currently. Councilman Truitt seconded the motion. All were in favor.

**VII. OLD BUSINESS**

- a. Discussion Draft Ordinances – Annexation Impact Fees; Possible Vote Public Hearing April 18, 2022 (Morris, Chandler, Gulbranson, Brought, Mayor and Council)

Town Solicitor Morris stated that at previous meetings there was an initial draft discussed and Council wanted more time to consider it. In the meantime, questions were raised as to what other towns have done concerning annexation and therefore Kyle and I collected that data for your review. The purpose of this is to raise revenue for issues and other needs as a result of adding additional homes and buildings to the town which will affect infrastructure. After Council has discussed this if there is a consensus a Public Hearing would be scheduled for the following month and then you could adopt any proposed changes to the annexation Ordinance with the Town.

Councilman Chandler stated that the purpose/reason for implementing this and amending the Code is that there was a Council Resolution which no one was aware of, which meant it was hidden. This would be clear to any member of the public that there is a fee for annexing into the Town of Dagsboro. There is a transparency or logic of adding this to the Code rather than leaving it as a Resolution. Secondly, since that Resolution was adopted in 2009, charges for annexation have been based on a sliding scale. The logic of the sliding scale is the larger the parcel to be annexed the greater the administrative costs are likely to be to the Town of Dagsboro. Broadly speaking, there are legal fees, Engineering Consultant fees, along with the cost to advertise the Public Hearing, staff hours and councilmembers hours as a sub-committee must be formed. The sub-committee would draft a written report which would consist of the pros and cons of the annexation. What he is conveying is that there is time, money, and effort put into this. If interested, refer to Section 3 in the Charter as well as Chapter 65 of the Town Code, which lays out all of the requirements. In some cases, convening a Special Election in which the town residents would vote to approve or disapprove the annexation. Based on historical practices in 2009, those fees have ranged from \$2,000 to \$3,000. The surrounding towns have annexation fee structures that range from the highest, which is Millsboro at \$12,985 per acre to the lowest which is Selbyville, which doesn't charge anything. Other towns range from \$500 per acre for residents and \$1,000 per acre for commercial land plus an escrow of \$2,000, which is Frankford's annexation fee structure. Milton's fee structure is \$3,900 plus an escrow of \$5,000 or Lewes which charges \$350 if it is less than one acre, \$2,500 if it is between 1 and 5 acres, or \$2,500 plus \$100 per acre for every acre if it is over five acres for the residential or \$2,500 plus \$500 for every acre over for commercial. Councilman Chandler suggested meeting in the middle of those fees and to keep it simple. Set a fixed amount and if it has a significant amount of acreage, of over 10 or 15 acres, add a per acre fee. He felt that would be the reasonable way to assess what the town would expend as a town because it is not fair to ask the towns' people to underwrite the cost of something that a property owner adjacent to the town is asking the town to do. Those are the reasons or rationale of doing it by an Ordinance and for setting it at a simple but straight forward amount.

Engineering Consultant Gulbranson stated that for a parcel greater than 25 acres it is \$3,000. On a sliding scale less than 5 acres is \$300, 5 to 9.9 acres is \$1,000, and 10 to 24.99 acres is \$2,000. Councilman Chandler asked Town Administrator Brought what it would roughly cost today to do an annexation with the legal and engineering fees. She stated that the average would likely be between \$5,000 and \$6,000, but she would go with \$6,000 since the price of everything is increasing. Vice-Mayor Ulrich stated her concern is that on a small scale for example if one lot owner wanted to annex into town the cost of \$6,000 would be too expensive. Councilman Chandler stated that the equitable answer

to that is they pay the \$6,000 and at the end of the process it only cost \$1,000 for the annexation fees the town can refund the money, the Council has the discretion and the power to refund the \$4,000 that wasn't necessary. Councilman Labor asked if the town can refund what is not used why not set a scale based on what the cost is. Councilman Chandler stated that it's because we don't know what the cost is. Councilman Labor stated that is why it would make sense to set it as a sliding scale as it was discussed earlier and that prices are increasing. If the price is set at \$6,000 he felt this will be revisited again in two years when the price is \$8,000. To make it equitable for the town, we would want people to show intent, but if they build they are going to pay the impact fees. He felt it made sense to make it a sliding scale based on the cost to the town rather than to set a figure. Engineering Consultant Gulbranson stated that the Town of Frankford is entertaining annexation and it was said publicly that the town will refund monies back to the applicant if the monies that are put in escrow aren't all spent. Councilman Labor asked the purpose of the escrow and why can't that be billed as part of the process rather than collecting it up front as that outlay of capital may be difficult for individuals. Engineering Consultant Gulbranson stated that typically escrow fees are used to pay professional fees. Councilman Chandler stated to Councilman Labor that his concern with not collecting the funds up front you might not get paid. Councilman Labor stated that he meant bill them before the work is done based on a quote of the proposed work. The quote would be the escrow amount and if it comes in lower we would refund the applicant the overage. He stated at least then the quote and the capital expenditure is proportionate to the amount set. Engineering Consultant Gulbranson felt what is risky about annexation is that the Town has to draft a plan of services which includes what the town would provide and it is sent to the State. The State can send back comments and suggestions and therefore there is potentially a back and forth process between the Town and the State. It would be difficult to give a quote not knowing what the process is going to be. Vice-Mayor Ulrich felt that \$6,000 is a lot of money for an individual. Reviewing the other towns fees most are \$1,500 for under a quarter acre. Town Administrator Brought stated that probably \$2,000 to start, Vice-Mayor Ulrich agreed. Town Solicitor Morris felt the town should have an Ordinance in place for the residents to know what is required of them. Councilman Truitt stated that the funds should be collected up front. Town Solicitor Morris agreed because in the past the town has been doing things and not getting paid and therefore that is a loss to the town.

Vice-Mayor Ulrich asked if de-annexation process was charged the same fees. Mayor Baull stated that there has only been one de-annexation since he has been Mayor. Town Administrator Brought stated that there was nothing in place and therefore no fees charged. Engineering Consultant Gulbranson stated that the de-annexation costs just as much as the annexation. Mayor Baull asked if they could use the Resolution from 2009 as a template and adjust the fees to more realistic current numbers. Engineering Consultant Gulbranson stated that some towns, if it is a water or sewer issue, would waive the annexation fee. After much discussion, it was decided to keep the scale for annexation and de-annexation and change the amounts based on what the costs would be currently and vote on it at the next meeting at the Public Hearing.

b. Discussion Draft Resolution – Amend (R) Building Permit Fees Involving More Than Five Homes; Possible Vote Public Hearing April 18, 2022

Town Solicitor Morris stated that at previous meetings there was a draft Resolution to amend the building permit fees and Council wanted more time to consider having a sliding scale. Councilman Chandler stated that he felt his idea had some logic to it, but he prefers Engineering Consultant Gulbranson's suggestion. Currently the building permit fee is based on the cost of construction, \$85 a square foot, which is not a realistic way of valuing the cost of construction and therefore there needs to be a way to reflect reality. Councilman Chandler stated that Engineering Consultant Gulbranson brought to his attention the International Code Council, which he didn't know existed. The International Code Council does a construction cost by category on an annual basis or semi-annual basis. Engineering Consultant Gulbranson stated that it is done in February and August of every year. Councilman Chandler stated this is a national industry average cost of construction, which ought to be a fair metric for our cost of construction without it being a guessing game. The Building Permit Fee Ordinance could be drafted to include wording that this would be updated every six months. If you use the International Code of Council numbers for the cost of construction and use our current multiplier it will generate a building permit fee that is double what it is currently. To avoid doubling the charge, which some would call a windfall, but if you adjust the multiplier from what it is currently at 1.25% to 1%, then it would be the same building permit fee that we have currently. To build a 2,000 square foot house, using the proper cost of construction and the lower multiplier it is going to yield essentially the same building permit fee. Other town's building permit fees may look lower than Dagsboro's, but that is because they make up for it on back end in their EDU's for the water and sewer that they are charging for. Town Solicitor Morris asked if it is possible rather than having Council have to consider it every six months to a year, to refer to this standard instead. Councilman Chandler felt that the other thing established by using these fees is that it will increase the fees payable to the Volunteer Fire Company and the Ambulance Service Fees based on their .25% of the permit fee. Engineering Consultant Gulbranson stated as reference, the cost from August to February went up \$20 per square foot, from \$130.58 to \$150.87. Council agreed to have Town Solicitor Morris make the changes discussed for presentation at the Public Hearing.

**VIII. PUBLIC COMMENT**

No public comment was made.

**IX. ADJOURNMENT**

Councilman Chandler made a motion to adjourn. Councilman Labor seconded the motion. All were in favor.

Meeting adjourned at 7:55 p.m.

Respectfully Submitted,

Stacy West, Town Clerk